

July 27, 2022

By ECF

Hon. Jesse M. Furman
United States District Judge
Southern District of New York
40 Centre Street, Rm 2202
New York, NY 10007

*Re: City of New York v. Arm or Ally LLC, et al., 22-cv-5525 (JMF);
rel. State of New York v. Arm or Ally LLC, et al., 22-cv-6124 (JMF)*

Dear Judge Furman,

The parties in *City of New York v. Arm or Ally LLC, et al.*, (the “City Case”) submit this joint status report pursuant to the Court’s orders (1) during the conference held July 13, 2022 and (2) filed on the docket as Doc. No. 27 on July 22, 2022.

Status of the City Case and Proposed Next Steps

Position of Plaintiff the City of New York

Plaintiff the City of New York (the “City”) and each of Defendants Rock Slide USA (“Rock Slide”) and Rainier Arms, LLC (“Rainier”), respectively, have agreed to a framework to resolve their disputes and are in the process of formalizing that agreement, after which time the City will be prepared to dismiss Rock Slide and Rainier from the City Case.

Of the remaining three Defendants in the City Case, only Salvo Technologies, Inc. d/b/a “80P Builder” has agreed to the City’s request to accept service. Accordingly, the City’s process servers are continuing to work to complete service on the remaining Defendants. As a result, the City respectfully requests that this Court schedule a conference in the City Case for two weeks from today, August 10, 2022. This should allow the City sufficient time to complete service on the remaining Defendants, at which time the City expects to be in a position to be able to advise the Court on an appropriate schedule for moving forward in the City Case, including setting a briefing schedule for the City’s pending motion for a preliminary injunction.

Position of Defendants

Defendants have no objection to the City’s proposal for setting a schedule in this case. Defendants believe that whatever schedule the Court ultimately adopts for briefing on the City’s preliminary injunction motion should be the same as the schedule adopted in the parallel case brought by the State.

Consolidation or Coordination with *State of New York v. Arm or Ally LLC, et al.*

Position of Plaintiff the City of New York

It is the City's understanding that the plaintiff in the related case, *State of New York v. Arm or Ally LLC, et al.*, 22-cv-6124 (JMF) (the "State Case"), which was removed by the defendants to this Court on July 19, 2022, intends to move to remand that case on or before the deadline of August 17, 2022. Accordingly, the City respectfully submits that it is premature at this time to consider consolidation or coordination of the City Case with the State Case. After the motion to remand has been adjudicated by this Court, the City does believe that coordination of discovery in the two cases would be beneficial, regardless of where the State Case is heard, and would welcome consolidation of the two cases, should this Court retain jurisdiction over the State Case.

Position of Defendants

Defendants expect that formal consolidation of this case with the case brought by the State will ultimately be appropriate to facilitate coordination of discovery in the two cases. However, Defendants have no objection to deferring this issue until after the Court rules on the State's anticipated remand motion.

Respectfully submitted,

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